IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

GEORGE DZIAMNISKI, >
>
Plaintiff >
>
vs. > Civil Action No. 07-604
>
KIRKPATRICK & LOCKHART >
>
Defendant >

2007 AUG -7 AM 10:56
CLERK
U S DISTRICT COURT

PLAINTIFF'S REPLY TO DEFENDANT'S RESPONSE IN OPPOSITION TO MOTION FOR DEFAULT JUDGMENT AND BRIEF REPLY TO DEFENDANT'S ANSWER TO PLAINTIFF'S COMPLAINT

1. Defendant has filed a Response in Opposition to Motion for Default Judgment in the above captioned case along with an Answer to Plaintiff's Complaint filed May 8, 2007. Plaintiff does not wish to delay the movement of this case by numerous Court filings concerning proper service of Summons. Although Plaintiff could conceivably argue the point of proper service it would benefit neither party and involve unnecessary expenditure. Suffice to say that Plaintiff initially requested service by U.S. Marshal. A Clerk of the U.S. District Court advised Plaintiff that it may take several weeks for the Judge to review the request to have Defendant pay for service.

Dockets.Justia.com

Failure to return Waiver of Service of Summons in a timely manner would impose a duty of the Defendant to pay for service as stated in Federal Rules of Civil Procedure Rule 4(d)(2). A Clerk on duty the day of July 2, 2007 stated that Service of Summons by Certified Mail would be appropriate. Not wanting to further delay the movement of the case the Plaintiff accepted the suggestion of the Clerk. While Plaintiff understands the necessity of Rules it is also taken for granted that Clerks of the U.S. District Court are knowledgeable of proper means of Service. In effect, Plaintiff took the word of the Clerk for the chosen method of Service of Summons. Not to labor the point Plaintiff accepts Defendant's willingness to waive service of the Complaint and Summons in the interests of advancing the case as stated in Defendant's Response in Opposition to Motion for Default Judgment. Plaintiff filed the Complaint with the purpose of pursuing the issues discussed therein, and as a means to seek a remedy. Plaintiff is not interested in prolonging the timely movement of the case by filing of numerous motions.

2. Defendant's Response also stated that the caption of the Complaint incorrectly named the Defendant. Plaintiff understands that the current name of Defendant is Kirkpatrick & Lockhart Preston Gates Ellis LLP.

While Plaintiff was employed at Defendant the name was "Kirkpatrick & Lockhart Nicholson Graham." To avoid confusion Plaintiff simply stated "Kirkpatrick & Lockhart" in the caption as is common usage. Newspapers often refer to the firm as just "K&L" which is of course an abbreviated term for "Kirkpatrick & Lockhart." "K&L Gates," as Defendant prefers to be called, is possibly involved in another merger and thus "K&L Gates" may be incorrect if that merger goes forward. "Kirkpatrick & Lockhart" is used in the interests of brevity, and any objection is in a sense just "nitpicking." Plaintiff requests the Court accept the use of "Kirkpatrick & Lockhart" as being understood to mean any version of the firm past or future.

3. Plaintiff objects to all Defenses offered by Defendant in the Answer to Complaint. Plaintiff will with diligence set out to affirm all claims asserted in the Complaint. Plaintiff declares that Defendant understands due process as is evidenced by representation in Court and the Answer provided. Plaintiff would also like that opportunity which was denied to him in the act of discharge by Defendant. Defendant's denials are meaningless. Defendant can deny that the earth is round; a thorough investigation would prove otherwise, and so it is the same with Plaintiff's claims.

Signature: *[signature]*

Name: George Dziamniski

Address: 4177 Finley-Elrama Rd.

Finleyville, PA 15332

Phone: 412-384-5441

Dated: 8-7-07

CERTIFICATE OF SERVICE

I, George Dziamniski, hereby certify that a copy of the Plaintiff's Reply to Defendant's Response in Opposition to Motion for Default Judgment and Brief Reply to Defendant's Answer to Plaintiff's Complaint was served by first class mail on this 7th day of August, 2007 upon the following person:

James W. Carroll, Jr., Esq.
Rothman Gordon P.C.
310 Grant Street
Third Floor, Grant Building
Pittsburgh, PA 15219

Signature: [signature] Pro Se